



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Color Country District Office

Cedar City Field Office

176 East DL Sargent Drive

Cedar City, UT 84721

Telephone (435) 586-2401

www.blm.gov/ut/st/en/fo/cedar_city.html



In Reply Refer To:

UTC01

3809: UTU-82963

CERTIFIED MAIL #7009 2820 0003 5151 9442

RETURN RECEIPT REQUESTED

October 28, 2010

DECISION

Mr. David Penney
Penney Gemstones, LLC
P.O. Box 312
Beaver, UT 84713

Notice Expired
43 CFR 3809.300(d)

RECEIVED

NOV 01 2010

Dear Mr. Penney:

DIV. OF OIL, GAS & MINING

Through letter dated October 27, 2008, this office authorized Penney Gemstone's, subject to posting the necessary bond, notice-level bulk sampling work on the Sliver #1-2 unpatented mining claims. The proposed project work would be located on BLM-managed lands near Lincoln Wash, Beaver County, Utah. The bond amount required for the work proposed was estimated at \$6,300. That bond amount was never posted and no work was ever carried out for the project. Current Bureau handbook guidance only allows us to leave an unbonded project in a pending status for a maximum of two years after acknowledgement of the notice. As there are no provisions for extending a pending, unbonded notice beyond the initial two-year period, your notice expired in accordance with 43 CFR 3809.333, effective October 27, 2010.

If you do not agree and are adversely affected by this decision, in accordance with 43 CFR 3809.804, you may have the Utah BLM State Director review this decision. If you request a State Director review, the request must be received in the Utah BLM State Office, P.O. Box 45155, Salt Lake City, Utah 84145-0155, no later than 30 calendar days after you receive this decision. A copy of the request must also be sent to this office. The request must be in accordance with the provisions provided in 43 CFR 3809.805. If a State Director review is requested, this decision will remain in effect while the State Director review is pending, unless a stay is granted by the State Director. Standards for obtaining a stay are given below. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

If the Utah State Director does not make a decision on whether to accept your request for review of this decision within 21 days of receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You then have 30 days in which to file your notice of appeal with the IBLA (see procedures below).

If you wish to bypass the State Director review, this decision may be appealed directly to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in the BLM Cedar City Field Office, 176 East DL Sargent Drive, Cedar City, UT 84720 within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

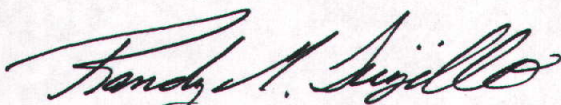
If you wish to file a petition pursuant to regulations 43 CFR 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of this notice of appeal and petition for a stay must also be submitted to each party named in the decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellant's success on the merits,
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.

Sincerely,



Randy M. Trujillo
Acting Field Office Manager

cc: Tom Munson, DOGM (Silver Project, S/001/pending)
Opie Abeyta, UT-923